

## REMARKS

Favorable reconsideration of the outstanding Office Action in light of the Remarks below is respectfully requested. Each of the Examiner's art rejections are address below.

### *Claim rejections – 35 USC 103*

The Examiner rejects claims 37 and 39 under 35 USC 103(a) as being unpatentable over United States patent US 5,715,314 ("Payne") in view of United States patent US 5,621,789 ("McCalmont"). In response, Applicant respectfully traverses the Examiner's rejection, as the Examiner has failed to meet the requirements to establish a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Applicant's analysis below demonstrates that the Examiner has not satisfied these three basic criteria.

### *Requirement to Teach or Suggest All Claim Limitations*

Payne relates to a network sales system. As described in the abstract, the network-based sales system includes at least one buyer computer for operation by a user desiring to buy a product, at least one merchant computer, and at least one payment computer. The buyer computer, the merchant computer, and the payment computer are interconnected by a computer network. The buyer computer is programmed to receive a user request for purchasing a product, and to cause a payment message to be sent to the payment computer that comprises a product identifier identifying the product.

By contrast, claim 37 of the present application relates to "a system for connecting a call center [emphasis added] to a customer computer having a customer IP address". Applicant submits that this is clearly different than the disclosure of Payne. Payne is silent to a "call center". Instead Payne teaches a system having "a buyer computer", "at least one merchant computer" and "at least one payment computer".

The Examiner contends that Payne teaches “the page including a remote option which when selected generates a form including the customer IP [emphasis added]”. Applicant respectfully disagrees. The Examiner refers to Figure 6 of Payne, which is a screen snap shot of a confirmation document that the payment computer sends to the buyer computer. As recited in column 6, lines 15 through 14, ‘if the user clicks on the “open” button, the buyer computer sends payment URL C to the payment computer, payment URL C being similar to payment URL A, but also indicating that the user does not yet have an account’. Applicant notes that URL A is described in column 5, lines 30 through 43. In this portion, Payne recites a number of components that are included in URL A; however, the recited components do not include “the customer IP” as recited by claim 37 of the present application. Therefore, if the user clicks on the “open” button, there is no form generated that includes the customer IP. The Examiner also refers to column 7, lines 18-24 and Figure 26, step 80 of Payne. However, these portions teach that “the payment computer [emphasis added] creates an access URL”. Accordingly, it is the payment computer and not “a remote customer computer” that generates the access URL.

The Examiner concedes that “Payne fails to disclose a help option which when selected generates a help request for a call center”, but looks to the disclosure of McCalmont. The Examiner refers to column 7 lines 26-28 of McCalmont; however, this portion teaches that “orchestra help symbol 137 makes available to the operator [emphasis added] the functions of orchestra help module as described below in connection with Figure 6B”. Accordingly it is the operator and not a customer that has the functions of the orchestra module available for use. The Examiner also refers to column 7 lines 33-35; however, this passage recites that “Figure 6B shows the orchestra help window through which the agent [emphasis added] may access the various help functions within the present embodiment”. Again, it is the agent or operator who has access to the various help functions and not a customer. Applicant submits that McCalmont is silent to teaching “a help option which when selected generates a help request for a call center”.

For at least the aforementioned reasons, Applicant submits that Payne and McCalmont in combination do not teach all of the claim limitations recited by claim 37 of the present application. Therefore, Applicant respectfully submits that the requirement of

teaching all limitations of the claim for establishing a *prima facie* case of obviousness has not been satisfied for claim 37.

*Requirement to Establish Motivation to Combine References*

The Examiner contends that “it would have been obvious to one of ordinary skill in the art at the time the applicant’s invention to use a windows-based help interface accessing the help functions of a call center, as suggested by McCalmont with the system disclosed by Payne in order to implement a help option which when selected generates a help request for a call center”. The Examiner further contends that “one of ordinary skill in the art would be motivated to do so in order to improve efficiency and reduce the cost for the daily call center operations”. Applicant respectfully disagrees with the Examiner for reasons detailed below.

Applicant notes that Section 2143.01 of the Manual of Patent Examining Procedure (MPEP) sets out three possible sources of motivation to combine, namely A) the nature of the problem to be solved, B) the teachings of the prior art, and C) the knowledge of persons of ordinary skill in the art. It is respectfully submitted that the Examiner has not established a motivation to combine the references from any one of the three sources.

*A. The Nature of the Problem to be Solved*

The nature of the problem to be solved in Payne and McCalmont are quite different. The problem to be solved in McCalmont is improving the overall efficiency of a call center. As described in col. 1, lines, 33 of McCalmont, “the call center agent uses separate telephone instruments to service voice transactions and a personal computer or similar computer device to process data transactions” and that “[t]his makes responding to a high volume of calls essentially prohibitive”. McCalmont aims to solve this problem. By contrast, Payne relates to “a network based sale system [emphasis added] that includes at least one buyer computer for operation by user desiring to buy a product, at least one merchant computer, and at least one payment computer”. Although the disclosure of Payne does not explicitly state the problem to be solved, Applicant submits that the problem to be solved by the network based sale system of Payne must be completely different than the problem of improving the overall efficiency of a call center. Payne has nothing to do with a call center.

*B. the Teachings of the Prior Art*

There is no teaching, suggestion, or motivation to combine Payne and McCalmont in the references themselves. Applicant notes that Payne and McCalmont do not refer to one another in their disclosures. Applicant further notes that the list of references cited in Payne does not include McCalmont and vice versa. Furthermore, Payne and McCalmont have different International Classifications and different United States Classifications. Accordingly, Applicant submits that there is no suggestion in the cited references to combine the disclosures of Payne and McCalmont.

*C. The Knowledge of Persons of Ordinary Skill in the Art*

As clearly stated *In re Kotzab*, 55 USPQ2d 1313, 1318 “Identification of prior art statements that, in abstract, appear to suggest claimed limitation does not establish prima facie obviousness without a finding as to specific understanding or principle within knowledge of skilled artisan that would have motivated one with no knowledge of invention at issue to make combination in manner claimed” [emphasis added]. Applicant submits that the Examiner has not demonstrated suggestion in the knowledge of persons of ordinary skill in the art to combine Payne and McCalmont in the manner claimed. Claim 37 recites features not found in Payne or McCalmont, yet the Examiner has not demonstrated any specific understanding or principle within knowledge of a skilled artisan that would suggest combining Payne and McCalmont in a manner that would arrive at such features of claim 37.

As clearly stated *In re Fine*, 5 USPQ2d 1596, 1600 “Patent and Trademark Office improperly rejected claimed invention for obviousness... since PTO therefore failed to satisfy its burden of establishing prima facie case of obviousness by showing some objective teaching or generally available knowledge that would lead one skilled in the art to combine teachings of existing references”. Since the Examiner has not demonstrated an objective teaching or generally available knowledge that would lead one skilled in the art to combine Payne and McCalmont in a manner that would arrive at the claimed invention, Applicant submits that the Examiner has not fulfilled his burden of establishing prima facie case of obviousness.

Further to the fact that there is no source of motivation to combine Payne and McCalmont, Applicant submits that combining Payne and McCalmont would result in changing the principle of the operation of the references. As stated under section 2142.01 of the MPEP, a “proposed modification cannot change the principle of operation of a reference”. Applicant submits that the Examiner has not conformed to this for reasons detailed below.

Payne relates to “a network based sale system that includes at least one buyer computer for operation by user desiring to buy a product, at least one merchant computer, and at least one payment computer”. By referring to Payne as disclosure for claim 37 of the present application, the Examiner is proposing modification to Payne so that it relates to “a system for connecting a call center [emphasis added] to a customer computer having a customer IP address”. Since Payne relates to a network based sale system and has nothing to do with a call center, Applicant submits that such a modification would change the principle operation of Payne.

The Examiner has referred to McCalmont, which teaches that “orchestra help symbol 137 makes available to the operator [emphasis added] the functions of orchestra help module”. As discussed above, it is an operator or agent who has access to the various help functions and not a customer. By referring to McCalmont as disclosure for “a help option which when selected generates a help request for a call center”, one would have to modify the teachings of McCalmont so that a customer and not an operator is provided with a help option which when selected generates a help request for a call center. Applicant submits that such a proposed modification would change a principle operation of McCalmont.

For at least the aforementioned reasons, Applicant submits that there cannot be motivation to combine the cited references. Therefore, Applicant respectfully submits that the requirement to establish motivation to combine references for establishing a *prima facie* case of obviousness has not been satisfied for claim 37.

In view of the forgoing, Applicant submits that claim 37 of the present application is inventive over Payne and McCalmont.

Applicant submits that claims 38 and 39 are inventive over Payne and McCalmont for at least their dependence upon claim 37. Claim 38 was rejected over Payne and McCalmont,

taken further in view of Srinivasan. However, Applicant submits that Srinivasan adds nothing to cure the deficiencies of Payne and McCalmont.

Accordingly, the Examiner is respectfully requested to reconsider and withdraw the obviousness objections set forth against claims 37-39.

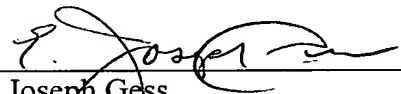
As all of the objections made in the Office Action have been addressed by this response, it is respectfully submitted that the application is now in condition for allowance. Applicant respectfully requests a timely Notice of Allowance to be issued in respect of this case.

If any objections remain, the Examiner is respectfully requested to telephone the undersigned with a view to resolving such objections as expeditiously as possible.

Respectfully submitted,

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